HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
And
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.10390 OF 2006

Between:
Nallani Srinivasa Rao.

..... Petitioner

AND

The District Collector (P.W.), Krishna
at Machilipatnam & others.

.....Respondents

:: O R D E R::

Counsel for Petitioner : Shri D. Prakash Reddy, Senior Advocate

assisted by

Shri M. Prasada Rao

Counsel for Respondent Nos. 1 to 3 : Government Pleader for Panchayat Raj

Counsel for Respondent No.4 : Shri O. Manohar Reddy

Dated: 13.07.2006

Per G.S.Singhvi, CJ

In this petition, the petitioner has prayed for quashing proceedings dated 11.05.2006 issued by Collector (P.W.), Krishna at Machilipatnam whereby he accorded permission to respondent No.4 to lift and transport the sand deposited in her patta land measuring Ac.23.54 cents in Revenue Survey Nos. 210 and 211 of Indugupalli Gram Panchayat in Vatsavai Mandal on payment of an amount of Rs.15,00,000/- i.e. upset price fixed by the District Level Committee.

The principal ground on which the petitioner has questioned the impugned proceedings is that in view of the judgment of the Division Bench of this Court in **Bheemagari Bhaskar v. Revenue Divisional Officer, Bhongir, Nalgonda District**[1], the District Collector did not have the jurisdiction to grant permission to respondent No.4 to lift and transport the sand from the patta land.

At the commencement of arguments, Shri D. Prakash Reddy, Senior Advocate invited our attention to the stand taken by respondent Nos. 1 to 3 that the permission granted to respondent No.4 to lift and transport the sand shall not be given effect to.

In the context of the statement made by the learned Senior Advocate, we enquired from the learned Government Pleader for Panchayat Raj as to what decision the State Government has finally taken in the matter of permission accorded to respondent

No.4 to lift and transport the sand from her patta land. In response, learned Government Pleader stated that the State Government had suspended the operation of proceedings dated 11.05.2006 issued by Collector (P.W.), Krishna at Machilipatnam and now it has been decided to auction the sand in accordance with the provision of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short 'the 1966 Rules').

Shri O. Manohar Reddy, learned counsel for respondent No.4 says that the decision of the Division Bench in **Bheemagari Bhaskar v. Revenue Divisional Officer, Bhongir, Nalgonda District** (supra) cannot be read as laying down a proposition that the sand deposited in the patta lands due to floods is required to be auctioned in accordance with the provisions of the 1966 Rules.

In our opinion, in view of the decision taken by the State Government to auction the sand deposited in the land of respondent No.4 in accordance with the provisions of the 1966 Rules, it is not necessary to adjudicate on the legality or otherwise of the impugned proceedings and the writ petition is liable to be disposed of as infructuous. Ordered accordingly. However, it is made clear that respondent No.4 shall be free to avail appropriate legal remedy including the one by way of filing writ petition to challenge the decision taken by the State Government to auction the sand deposited over her land.

At this stage, Shri O. Manohar Reddy made a request that the State Government may be directed to communicate its decision to his client. The request of the learned counsel is accepted and it is directed that the decision taken by the State Government to auction the sand deposited over the patta land of respondent No.4 be communicated to her within a period of seven

days from today.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

13.07.2006
svs

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[1] 2001(5) ALD 277